

State of Hawaii
DEPARTMENT OF LAND AND NATURAL
Division of State Parks
Honolulu, Hawaii

December 9, 2005

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

SUBJECT: Annual Renewal of Revocable Permits (RPs) on the islands of Kauai and Oahu

STATUTE: Section 171-55, Hawaii Revised Statutes, reads as follows:

“Permits. Notwithstanding any other law to the contrary, the board of land and natural resources may issue permits for the temporary occupancy of State lands or interest therein on a month-to-month basis by direct renegotiation without public auction, under conditions and rent which will serve the best interest of the State subject, however, to those restrictions as may, from time to time, be expressly imposed by the board. A permit on a month-to-month basis may continue for a period not to exceed one year from the date of its issuance; provided that the board may allow the permit to continue on a month-to-month basis for additional one-year period.”

BACKGROUND:

As part of its annual review of RPs, the Board may either approve or disapprove the continuation of existing revocable permits covering State Parks lands on a month-to-month basis for another year or without any changes in their existing rental rates. Such actions are taken in recognition of prevailing economic conditions.

The current list of RPs as shown on Exhibit A is due to renew effective from January 1, 2006, except for permits that are in arrears of rental payment for more than 60 days and/or have been approved for forfeiture by a separate Board action. Permits in arrears of rental for 60 days or more and /or approved by the Board for forfeiture shall not be renewed. Therefore, staff recommends the Board to approve the continuation of the RPs as listed on Exhibit A until December 31, 2006 at the current rental.

RECOMMENDATION That the Board:

Approve the continuation of the revocable permits listed in Exhibit A on a month to month basis for another one-year period up to December 31, 2006 at the current permit rent, except for permits that are in arrears of rental payment or other non-monetary

REVOCABLE PERMIT

EXHIBIT "A"

PERMITTEE	PERMIT#	TWKLLOCATION	RIGINAL RP DATE	CHAR. OF USE	RP AREA	RENT
District – Oahu						
Wesley & Joan Cash	SRP-6843	(1)4-2-13:22 (port.)	1/1/1993	Pasture	17 acres	\$ 156
Diamond K Ranch	SRP-6844	(1)4-2-13:10	1/1/1993	Pasture	80 acres	\$ 7,752
Rick Ralston	RP-6610	(1)2-5-19:4 (port.)	1/1/1987	Recreation Resid.	20,630 sf	\$ 7,248
District – Kauai						
NaPali Kayak Inc.	SP-0044	Na Pali Coast State Park	1/1/2005	Boat landing	N/A	\$ 5,812*
Kayak Kauai I	SP-0045	Na Pali Coast State Park	1/1/2005	Boat landing	N/A	\$ 8,960*
Outfitters Kauai	SP-0046	Na Pali Coast State Park	1/1/2005	Boat landing	N/A	\$ 4,204*
Lady Ann Cruises	SP-8701	Na Pali Coast State Park	6/1/1987	Boat landing	N/A	\$ 8,059*
Na Pali Zodiac	SP-0004	Na Pali Coast State Park	1/1/1987	Boat landing	N/A	\$ 10,744*
Kauai Sea Tours	SP-0005	Na Pali Coast State Park	1/1/1987	Boat landing	N/A	\$ 10,126*

* Denotes percentage fee

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Subject: Malaekahana State Recreation Area Development
Project (MSRA), Lā'ie, O'ahu - Cancellation of RFQ/RFP
and Rejection of Responses in accordance with Request
for Qualifications/Proposal (RFQ/RFP) for Development,
Operation and Maintenance of MSRA dated August 24, 2004
and authorization for re-issuance of a revised RFQ/RFP

Area:

MSRA is comprised of two non contiguous oceanfront sections consisting of the Kahuku section at 36.16 acres and the Kalanai section, 73.71 acres that are the subject of the RFQ/RFP (See Exhibit "A").

Current Use Status:

The Kahuku section is under a month to month revocable permit to Lanihuli Community Development Corporation, whose principal has a managing interest as the sole bidder of the subject RFQ/RFP. The Kalanai section is managed by the Division of State Parks (State Parks).

Background:

The development and operation of parks by lease to private entities is a new process for State Parks. If done successfully, it will allow existing park personnel to be shifted to other parks in the system that are under manned and will result in additional revenue for State Parks whose budget is already under stress. MSRA is the first Park resource to be the subject of a development RFQ/RFP.

In September 2003, a Development Plan was submitted on the Kahuku Section only (36+ acres) by Wesley R. Segawa & Associates. The plan includes several development alternatives with scenarios for tent camping only, tent and cabin camping, with a maximum carrying capacity of 440 people. It details new infrastructure, cabin and tent sites, etc. with an estimated cost to complete of approximately \$4,400,000.

There is no updated development plan for the Kalanai Section (73+ acres). However as with the Kahuku Section, the Kalanai Section will require the replacement and upgrade of the infrastructure and site improvements such as additional comfort stations, picnic areas, etc.

On December 12, 2003 the Board of Land and Natural Resources (Land Board) approved a public process for the issuance of an RFQ/RFP to develop, operate and maintain the Kahuku and Kalanai sections. The Board further mandated the Chair to form an evaluation committee of

DLNR and community representatives to work with bidders to evaluate the bidders' qualifications and their proposals.

On August 24, 2004, the RFQ/RFP process began with packages being made available to interested bidders. In addition to the RFQ/RFP being available on the internet, 13 bid packages were distributed and resulted in 4 bidders being qualified to submit an RFP. At the deadline for RFP submittals there was only one bidder, Malaekahana Partners, L.L.C. (MP). As such, MP is the only qualified bidder and is the focus of this Board submittal.

Malaekahana Partners, LLC (MP) Request for Proposal

MP, the only qualified bidder, was formed just for this project by Craig Chapman, Hawaii Yurt Adventures Corp. and the John Hoffee Trust, each holding a 33 1/3 interest.

In addition, the John Hoffee Trust will extend a construction/permanent loan commitment to MP of up to \$2,000,000.

Construction costs for the Kahuku and Kalanai sections are projected by MP at \$2 million dollars. The Segawa Development Plan calls for a similar mix of camping and cabins and estimates construction costs at over \$4 million dollars. MP plans to save on labor cost using their own employees and volunteer labor. If this conceptual plan were to be approved by the Board, a performance bond is recommended to ensure completion of the improvements. To have an accurate dollar bond amount the job will have to be bid out to third party contractors so that if there were a default by MP, sufficient funds would be available from the bonding company to complete construction.

The project will require MP to secure permits, including but not limited to, an Environmental Impact Statement, Special Management Area use permit and Minor Conditional Use Permit. The Kahuku section is zoned R-5 by the City and County and will be changed to P-2 to accommodate camping. This permitting process is estimated at 24 months. Construction is estimated at 21 months with the completion of construction targeted for September of 2008. According to the financial pro forma submitted by MP, MSRA would remain open during this development process.

Current Status

On May 13, 2005 staff brought a recommendation to the Board to approve the only qualified bidder from the RFQ process, MP, as the Selected Bidder, subject to certain conditions such as an appraisal of the development proposal, paid for by MP. In June, 2005, staff bid the appraisal assignment out and sent the results to MP with a request for MP to engage the appraiser. MP responded by saying they did not want to commit to the appraisal expenditure of \$13,500.00, unless they were the Selected Bidder.

Public testimony at the May 13, 2005 Board meeting cited several troubling aspects of MP's proposal, one of which was contact and consultation with the windward communities. The Land Board requested

additional community input on MP's proposal and asked that Craig Chapman, representing MP, attend and present the project to the community associations that would be impacted by the park's development. Staff identified the communities of Lā'ie, Kahuku, Hau'ula, Punalu'u, Ka'a'awa and the Ko'olauloa Neighborhood Board #28 as the organizations to which MP's proposal will be made.

At the meetings, Craig Chapman gave presentations of his proposal to develop outdoor recreation facilities at both the Kalanai and Kahuku sections of the park. Staff was present at all of the meetings to hear the public's comments. It is noted that at each of the meetings, the general concepts of the development plan that was submitted for the RFP was offered for discussion, however, depending on the comments that were received, the concepts were verbally modified to satisfy any concerns raised. Knowing the importance of the community's support for the development plans, the presentations were adjusted accordingly.

As the presentations were made to the community organizations mentioned above, staff sent letters to the associations asking what position they were taking with respect to the development plans. On September 7, 2005, Kahuku Community Association submitted a letter saying that they wanted 100% development for both sections of the park. On September 15, 2005, Punalu'u Community Association submitted a letter with the following concerns: the current proposal far exceeds our expectations for park use and development; shoreline access will be limited by management; the natural setting will be destroyed by the proposed elaborate infrastructure, roads, and pathways; and the granting of the proposal after only one bid is questionable. On October 29, 2005, Lā'ie Community Association submitted a letter of support for MP's proposal. On October 11, 2005, Ka'a'awa Community Association voted not to support the project and long term lease for the following reasons: privatizing a State Park for private commercial purpose with significant structural development is objectionable, the proposed monthly lease rent of \$6,000-8,000, until the debt service is paid off, and amortization of 30 years, seems unreasonably low and long based on the MP projections. The State should expect to receive percentage rent plus a base lease rate with escalating clauses after a period of time; and the proposal was changed to eliminate the Kalanai section from the RFP and would not provide oversight or security for the Kalanai section.

Due to the concerns of the community, Ko'olauloa Neighborhood Board #28 formed a fact-finding group made up of one individual from each of the 5 community associations to gather information and ideas about how these concerns might be addressed. At their October 13, 2005 meeting, the Neighborhood Board, reviewed the results of the meeting held by the fact-finding group and voted to request that the Land Board not issue a lease to MP. The Neighborhood Board took this action as the bidder had significantly changed his proposal from what was submitted for the RFP.

Current use of the Kahuku Section is under a gratis month to month revocable permit to Lanihuli Community Development Corp (LCDC). It contains 7 dilapidated cabins and 40 camp site areas and 5 furnished camping yurts that do not have any county occupancy permits. LCDC provides security for the Kahuku Section. The Kalanai Section, managed by State Parks, has 37 camp sites available and no on-site security.

Staff is concerned with the following issues:

- The RFQ process produced only one qualified bidder. The fact that there weren't more bidders could be due to the considerable capital requirement, compared to the return, when analyzed using conventional construction methods as opposed to MP's plan to use volunteer labor.
- Using MP's approach adds a significant layer of risk including potential problems obtaining a performance bond that would allow for completion of construction where the bond amount did not include the labor expense.
- The Yurt structure, foundation and materials have not been approved by the County, including the prototype that has been constructed on site.
- There is no Environmental Impact Statement and no completed Master Plan for the Kalanai Section. These are significant expense items to be born by MP.
- The estimated construction cost from the Segawa Development Plan (Sept. 2003) for the Kahuku Section only, is \$4,437,000. MP estimates construction for both sections at \$2,000,000. Construction costs have increased significantly since the Segawa report and MP submitted their building cost which during this protracted RFQ/RFP process has further reduced staffs' confidence as to the project's viability.

Staff, with the concurrence of the evaluation committee, recommends that the RFQ/RFP be cancelled.

Recommendation

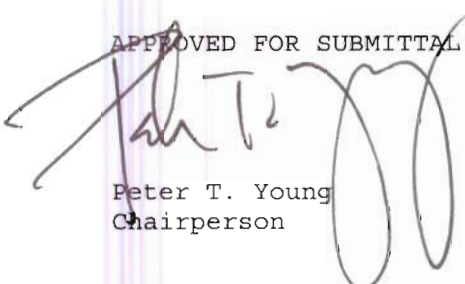
That the Board pursuant to HAR section 3-122-59(a) (3) cancel the current RFQ/RFP and authorize the Chair, following an evaluation, and revision of the terms and conditions, to issue another RFQ/RFP for the development and management of Malaekahana State Recreation Area. The Land Board will make the final selection of the subsequent selected bidder.

Respectfully Submitted,



Daniel S. Quinn
State Parks Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young
Chairperson